

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joshua Brickell	Team: Team # 6	CCRB Case #: 201311767	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/15/2013 10:55 PM	Location of Incident: Outside of 2855 Altantic Avenue	Precinct: 75	18 Mo. SOL 8/15/2014	EO SOL 8/15/2014	
Date/Time CV Reported Tue, 12/17/2013 10:30 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 12/17/2013 10:32 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. LT Timothy Skretch	00000	926130	075 PCT
3. CPT John Buttacavoli	00000	918799	075 PCT
4. LT Elliot Colon	00000	905982	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nicholas Accetta	05404	950400	075 PCT
2. SGT Paul Muggeo	01298	944834	075 PCT
3. POF Lisa Miles	22643	953108	PBBN
4. POM Terrence Sloan	29057	951271	075 PCT
5. SGT Anthony Gulotta	03094	919140	075 PCT
6. POM Luis Cabrera	24683	950135	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT John Buttacavoli	Abuse: Capt. John Buttacavoli stopped the vehicle in which § 87(2)(b) was an occupant.	
B.LT Timothy Skretch	Abuse: Lt. Timothy Skretch frisked § 87(2)(b)	
C.LT Elliot Colon	Abuse: Lt. Elliot Colon searched the vehicle in which § 87(2)(b) was an occupant.	
D. Officers	Abuse: Officers searched the car in which § 87(2)(b) was an occupant.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Case Summary

On December 17, 2013, § 87(2)(b) filed the following complaint with the Civilian Complaint Review Board (CCRB) via the online website on behalf of her fiancé, § 87(2)(b) (encl. 7A - C). On February 15, 2013, § 87(2)(b) vehicle was stopped, and the following allegations resulted:

Allegation A – Abuse of Authority: Capt. John Buttacavoli stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Allegation B – Abuse of Authority: Lt. Timothy Skretch frisked § 87(2)(b)

§ 87(2)(g)

Allegation C – Abuse of Authority: Lt. Elliot Colon searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Allegation D – Abuse of Authority: Officers searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(2)(b) rejected mediation.

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- *On the date of the incident, § 87(2)(b) was § 87(2)(b) old. He is a black male, stands 5'10" tall, weighs 210 pounds and has black hair and brown eyes. § 87(2)(b)*

CCRB Statement:

On December 24, 2013, § 87(2)(b) provided a brief statement via telephone (encl. 9). On January 14, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 10A - C). § 87(2)(g)

On February 15, 2013, at approximately 10:53 p.m., § 87(2)(b) parked his white, 2010 Honda Accord, license plate § 87(2)(b) in front of his fiancé's, § 87(2)(b) residence, located at § 87(2)(b) in Brooklyn. He was picking § 87(2)(b) up to go do laundry a few blocks away. § 87(2)(b) was wearing black and white Adidas sweatpants and a hooded sweatshirt. He had his wallet in his pocket and his cell phone was on the dashboard.

An unmarked, silver or black Ford Fusion pulled up behind him and blocked him from backing up. There were three officers in the vehicle. The driver of the vehicle, whom § 87(2)(b) described as a white male, approximately six feet two inches tall, two hundred and twenty pounds, forty two years old, with blonde hair and scruff on his face, wearing plainclothes, whose name was Timothy Scratch, Strike, or Sketch, identified via the investigation as Lt. Timothy Skretch from the 75th Precinct, turned the turret lights on, exited the vehicle and approached § 87(2)(b). Lt. Skretch told § 87(2)(b) to turn off the car, which he did. § 87(2)(b) asked him why he was being stopped, and Lt. Skretch responded that he was backing up on a one way street. § 87(2)(b) responded that he was simply parking, and Lt. Skretch told him again to turn off the vehicle. § 87(2)(b) removed the keys from the ignition and placed them on the dashboard.

Lt. Skretch asked § 87(2)(b) for his driver's license and registration, and § 87(2)(b) provided his driver's license, registration and MTA identification card. Lt. Skretch looked at them and told § 87(2)(b) to step out of the vehicle. § 87(2)(b) exited the vehicle and left the door open. Lt. Skretch then grabbed § 87(2)(b) by the right wrist and pulled him to the back of the vehicle. § 87(2)(b) pulled back slightly and told Lt. Skretch that he was complying and that the force was not necessary. Lt. Skretch told him that due to the severity of the crime, he could have him in handcuffs. § 87(2)(b) said that he did not know what the officer was talking about.

At the rear of § 87(2)(b) vehicle, Lt. Skretch patted around § 87(2)(b) pockets and asked him a series of questions. Lt. Skretch asked § 87(2)(b) where he was coming from, and he responded that he was coming from home. Lt. Skretch asked him where he worked and § 87(2)(b) told him that he worked at the MTA. Lt. Skretch asked what he did there and § 87(2)(b) told him he § 87(2)(b) and that if Lt. Skretch did not believe him he could call his job. Lt. Skretch asked § 87(2)(b) if he had any weapons and § 87(2)(b) said he did not. Lt. Skretch asked if § 87(2)(b) lent his car to anyone that night and § 87(2)(b) said he did not. Lt. Skretch and a second, uniformed officer, whom § 87(2)(b) described as a Hispanic male in his mid-forties, approximately five feet ten inches tall, weighing one hundred and ninety to two hundred pounds, with black hair, identified via the investigation as Lt. Elliot Colon from the 75th Precinct, said that it was an odd coincidence that his license plate was so close to the one they were looking for.

Lt. Colon then explained to § 87(2)(b) that § 87(2)(b) by a black male driving a silver, 2007 Honda Accord with the license plate § 87(2)(b) § 87(2)(b) asked them if the suspect had a beard similar to his because it is very distinctive. Neither Lt. Skretch nor Lt. Colon answered § 87(2)(b). The officers directed § 87(2)(b) to stand on the sidewalk next to his vehicle. During this time multiple officers searched his vehicle, including the third plainclothes officer from the original police vehicle, whom § 87(2)(b) described as a white male, approximately five feet ten inches tall, with a heavysset build, identified via the investigation as Capt. John Buttacavoli from the 75th Precinct. § 87(2)(b) did not know which other officers searched his vehicle and was unsure when they arrived. § 87(2)(b) stood there for an unknown amount of time before a black, unmarked vehicle arrived with the female victim and at least three officers. The victim did not identify § 87(2)(b) as the perpetrator, however the officers continued to detain § 87(2)(b). One of the officers that arrived with the female, whom § 87(2)(b) identified as PO "Sloan," and described as a white male, identified via the

investigation as PO Terrence Sloan from the 75th Precinct, took a picture of § 87(2)(b) while he was standing on the sidewalk.

During the time that § 87(2)(b) was standing on the curb, four or five officers searched his vehicle again. § 87(2)(b) believed that some of these officers arrived with the black, unmarked vehicle. None of the officers asked § 87(2)(b) permission to search the vehicle, and he could not identify or describe any of the officers other than Capt. Buttacavoli. § 87(2)(b) did not recall whether the officers searched the trunk of his vehicle.

§ 87(2)(b) saw approximately twelve officers during the incident, including approximately eight uniformed officers, whom arrived later in the incident. He saw at least four vehicles, both marked and unmarked. All of the officers that he saw arrived by vehicle. Approximately ten minutes after the start of the incident § 87(2)(b) came outside and spoke with an unidentified officer. Lt. Skretch asked § 87(2)(b) if he had all of his belongings before leaving and § 87(2)(b) said that he did. The officers left sometime after 11 p.m. After the incident § 87(2)(b) and § 87(2)(b) got into his car to go to the laundromat. § 87(2)(b) realized that his phone was missing, and he called the phone company, who informed him that someone had been using his phone to make phone calls, send picture messages out and use the internet.

The following morning, § 87(2)(b) went to the 75th Precinct stationhouse to file a complaint. He spoke with an officer that told him that the officers he interacted with work the evening shift and that he should come back later. § 87(2)(b) came back later in the day and spoke with Lt. Skretch, who said that none of the officers had taken his phone. § 87(2)(b) filed a complaint, but said that the complaint got screwed up and that he went back on February 18, 2013, to re-file the complaint. § 87(2)(b) spoke with Lt. Skretch again and told him that he had filed a complaint with the Internal Affairs Bureau. § 87(2)(b) did not recover his phone.

Complainant/Witness: § 87(2)(b)

- *On the date of the incident, § 87(2)(b) was § 87(2)(b) old. She is a Hispanic female, stands 5'8" tall, weighs 200 pounds and has brown hair and brown eyes.* § 87(2)(b)

CCRB Statement:

On January 14, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 11A - B). § 87(2)(g)

On February 15, 2013, at approximately 11:10 p.m., § 87(2)(b) was at her residence located at § 87(2)(b) in Brooklyn, waiting for her fiancé, § 87(2)(b) to go to the laundromat. § 87(2)(b) came out of the apartment and saw § 87(2)(b) surrounded by approximately five to eight police officers. Two of the officers were in plainclothes and the rest were uniformed. There were three police vehicles, one of which was a dark blue, unmarked sedan.

§ 87(2)(b) thought that § 87(2)(b) had been in a car accident and walked towards him and asked if he had been in an accident multiple times. § 87(2)(b) said that he was not, and § 87(2)(b) was stopped by two or three officers about fifteen to twenty feet away from § 87(2)(b). One of the plainclothes officers, whom she described as a Hispanic male, five feet six inches to seven inches tall, with a slim build, identified via the investigation as Lt. Elliot Colon from the 75th Precinct, told her to stop and two uniformed officers escorted her back to the front of her residence, which she said was about fifteen to twenty feet away from § 87(2)(b) § 87(2)(b).

had probably interacted with the officers for approximately thirty minutes before she came outside.

§ 87(2)(b) stood on the curb and was questioned by a plainclothes officer, whom § 87(2)(b) described as a tall, white male, with dark hair and green eyes, whose name she said was either Sketcher or Strike, identified via the investigation as Lt. Timothy Skretch from the 75th Precinct, for thirty to forty-five minutes. Two or three uniformed officers searched § 87(2)(b) vehicle while he spoke with Lt. Skretch, although § 87(2)(b) could not describe them. The officers searched the back of the vehicle and the trunk.

During the incident, § 87(2)(b) asked Lt. Skretch what justified such an in-depth search of § 87(2)(b) vehicle. He said that a § 87(2)(b) a black male driving a white vehicle that had a license plate very similar to § 87(2)(b) vehicle, and that they had to search his vehicle. The officers left the scene one vehicle at a time. § 87(2)(b) and § 87(2)(b) entered his vehicle to go to the laundromat, and § 87(2)(b) realized his phone was missing. They called his phone a few times and it would ring and then go directly to voicemail. The phone was later turned off. § 87(2)(b) said that they later found out that someone was making phone calls and sending pictures out from the phone.

§ 87(2)(b) and § 87(2)(b) went to the 75th Precinct stationhouse a few times to file a complaint about § 87(2)(b) phone. The first time they spoke with a female officer who said that there was nothing that they could do. The second or third time they spoke with an officer that called over a few of the officers that were involved to speak with them. The officers claimed that no one had taken the phone and suggested that § 87(2)(b) had simply misplaced it. § 87(2)(b) spoke with PO Accetta, whom he recognized from the scene, and asked for his name, which he provided.

NYPD Statements:

Subject Officer: LT. TIMOTHY SKRETCH

- *On the date of the incident Lt. Skretch was § 87(2)(b) old. He is a white male, stands 6' tall, weighs 230 pounds and has brown hair and blue eyes.*
- *Lt. Skretch was the Special Operations Lieutenant, worked from 2:00 p.m. until 10:45 p.m., was working with Lt. Elliot Colon and Capt. John Buttacavoli, was assigned to unmarked RMP 1681, and was in plainclothes.*

Memo Book (encl. 13A - B)

At 11:10 p.m., one male stopped at Atlantic Avenue and Ashford Street in regards to Radio Run #§ 87(2)(b) complaint of § 87(2)(b) transmitted by 75th Precinct Impact. Individual stopped identified as § 87(2)(b) Male black, date of birth § 87(2)(b) of § 87(2)(b) operating vehicle bearing NY plate number § 87(2)(b) which was nearly identical to that transmitted by radio dispatcher. UF 250 prepared and submitted in regards to stop. 11:25 p.m., resumed patrol.

Stop, Question and Frisk Report (encl. 14A – 15B)

On February 15, 2013, a UF-250 was prepared by Lt. Skretch for § 87(2)(b). The stop involved § 87(2)(b) and took place on Atlantic Avenue and Ashford Street. It began at 11:10 p.m., and lasted fifteen minutes. § 87(2)(b) fit the description and had a matching license plate, NY § 87(2)(b). He was frisked based on his refusal to comply with officer's direction leading to reasonable fear for safety, because the officers suspected that § 87(2)(b) was involved in a violent crime, and because the radio run stated that the perpetrator was armed with a firearm. No weapon was recovered. Additionally, Lt. Skretch marked report from victim/witness, evasive,

false or inconsistent response to officer's questions, proximity to crime location, and the matching vehicle to that fleeing § 87(2)(b)

CCRB Statement:

On February 27, 2014, Lt. Skretch was interviewed at the CCRB (encl. 16A - D). § 87(2)(g) On March 26, 2014, Lt. Skretch was interviewed again. His statements are summarized below.

On February 15, 2013, at approximately 10:48 p.m. Lt. Skretch was driving his unmarked, tan RMP on a routine patrol with Capt. Buttacavoli and Lt. Colon. They observed two Impact officers talking with a female § 87(2)(b) and drove over to inquire as to what was happening. A female officer, identified via the investigation as PO Lisa Miles from Patrol Borough Brooklyn North, approached the vehicle and told Capt. Buttacavoli that § 87(2)(b) a couple of minutes earlier. The perpetrator, a male black, had fled the scene in a tan or silver sedan with NY plates. Lt. Skretch did not recall a further description of the suspect or the exact license plate number, however, PO Miles provided the plate number to Capt. Buttacavoli at the time. Capt. Buttacavoli called the Impact sergeant, identified via the investigation as Sgt. Anthony Gulotta from the 75th Precinct, to the scene to transmit the description over the radio.

Lt. Skretch canvassed the area for approximately two minutes. He drove westbound on Atlantic Avenue and observed a vehicle similar in color and description to the suspect vehicle at the corner of Atlantic Avenue and Ashford Street. The license plate, § 87(2)(b) was one digit off from the plate number provided by the victim. The driver, identified via the investigation as § 87(2)(b) was backing the vehicle up, however, it appeared to Lt. Skretch that he was parking. Due to the proximity of the crime (less than two blocks away), the lapse of time after the incident (less than two minutes), and the description of the vehicle, which Lt. Skretch did not recall, Lt. Skretch pulled up behind the vehicle and activated his turret lights to stop it. § 87(2)(b) stopped the vehicle.

Lt. Skretch and the other officers exited their RMP and approached § 87(2)(b) vehicle. Lt. Skretch described § 87(2)(b) as a black male, approximately five feet seven inches to eight inches, with a bald head and goatee. Lt. Skretch asked him for his driver's license, registration and insurance card. § 87(2)(b) acted "combatively" and asked Lt. Skretch multiple times why he was stopped. Lt. Skretch told him that he would explain the situation if he gave him the time to do so. § 87(2)(b) gave Lt. Skretch his license. He did not make any furtive movements with his hands or move around in the vehicle.

Lt. Skretch asked § 87(2)(b) to exit vehicle, as he feared that § 87(2)(b) might have a weapon. § 87(2)(b) was hesitant to do so, however, Lt. Skretch said that he would explain the stop if he did and § 87(2)(b) exited the vehicle. Lt. Skretch did not observe any bulges on § 87(2)(b) person to indicate that he was carrying a firearm or see anything in the vehicle that looked like a firearm from outside of it. § 87(2)(b) followed Lt. Skretch to the back of the vehicle. Lt. Skretch did not put his hands on § 87(2)(b) while he walked to the back of the vehicle. Lt. Skretch then frisked § 87(2)(b). He did so because of the radio run § 87(2)(b), the fact that § 87(2)(b) vehicle was nearly identical to the vehicle described by the victim, and for officer safety. Nothing was recovered as a result of the frisk. § 87(2)(b) did not physically resist at any point, however, he seemed upset that he was being detained.

Lt. Skretch asked § 87(2)(b) a series of questions, however, he did not recall specifically what he asked him. Lt. Skretch rebroadcasted the radio run in front of § 87(2)(b) so he would

understand what was happening. Lt. Colon and Capt. Buttacavoli searched the front and back seats of § 87(2)(b) vehicle while Lt. Skretch questioned § 87(2)(b) however, due to his position, he could not see specifically what was searched or how, and he did not watch the search. The vehicle was also searched by unidentified officers that arrived during the incident. Lt. Skretch did not see whether the trunk was searched. Nothing was recovered from the search, nothing was removed from the vehicle, and Lt. Skretch did not recall how long the search was conducted.

Lt. Skretch transmitted the vehicle stop over the radio and approximately ten additional officers arrived at the scene. Lt. Skretch was unsure when and how these officers arrived, but said that there was at least one marked RMP and possibly a van on scene. Lt. Skretch and two other officers walked with § 87(2)(b) to the sidewalk to wait for the showup of the victim to be conducted. § 87(2)(b) was not in handcuffs at any point because he had not yet been determined to have committed a crime. Lt. Skretch was unsure what Lt. Colon and Capt. Buttacavoli were doing at this time. During the incident Lt. Skretch noticed a woman standing nearby, identified via the investigation as § 87(2)(b)

A marked RMP arrived with the victim approximately ten to fifteen minutes. She was asked if § 87(2)(b) was the perpetrator, however, she was unable to make a positive identification. § 87(2)(b) was given back his identification and allowed to leave the scene. His vehicle was not searched after the showup.

Lt. Skretch saw § 87(2)(b) and an unidentified female in the civilian area of the 75th Precinct stationhouse a few days later. § 87(2)(b) explained that he had already filed a complaint regarding the loss of his cell phone from the scene. Lt. Skretch was with § 87(2)(b) for the entirety of the search and denied taking his phone.

Lt. Skretch examined the UF 250 during the interview. In relation to the “evasive/false/inconsistent answers” section, Lt. Skretch said that he did not recall the specifics of his conversation with § 87(2)(b) but said that he was angry, combative and did not want to answer any of the questions asked of him, however, he did not raise his voice or curse. Lt. Skretch could not recall why he had marked, “refusal to comply with officer directives” on the UF 250. He said that the “hard copy” of the UF 250 was consistent with the handwritten sheet, which he provided. § 87(2)(b) name was not listed on the hard copy due to court mandate, which states that if no crime is committed or the person stopped is not summonsed or arrested, their name cannot be kept on-file.

Lt. Skretch watched and narrated the surveillance footage, summarized below:

Lt. Skretch was driving, Lt. Colon was in the front passenger seat and Captain Buttacavoli was in the rear passenger seat. Lt. Skretch confirmed that he frisked § 87(2)(b) at 22:55:43 p.m., while Lt. Colon searches the passenger side of the vehicle. Lt. Skretch acknowledged that the showup occurred at some point, however, because of the quality of the video it was difficult to determine exactly when it took place. The showup occurred fairly quickly after the marked RMP arrived with the female. Lt. Skretch said that the video was a fair and accurate depiction of the events of the incident.

Subject Officer: CPT. JOHN BUTTACAVOLI

- *On the date of the incident, Captain Buttacavoli was § 87(2)(b) old. His is a white male, stands 5’8” tall, weighs 190 pounds, and has brown hair and green eyes.*

- *Captain Buttacavoli was the Executive Officer, worked with Lt. Timothy Skretch and Lt. Elliot Colon, was assigned to an unmarked vehicle, and was in uniform. He did not recall his tour on the date of the incident.*

Memo Book

Because captains are not required to keep memo books, Capt. Buttacavoli did not have any memo book entries related to the incident.

CCRB Statement:

On May 1, 2014, Capt. Buttacavoli was interviewed at the CCRB (encl. 17A - C). His statement is summarized below.

On February 15, 2013, Capt. Buttacavoli was on patrol with Lt. Skretch and Lt. Colon. They were driving on § 87(2)(b) when they were flagged down by two, unknown impact officers. The officers were with a female victim who was upset and crying. Capt. Buttacavoli spoke with the victim § 87(2)(b). She described the perpetrator as a short, black male, with a stocky build, and provided a description of his vehicle and license plate number, which Capt. Buttacavoli did not recall. He did not recall whether the victim provided any additional details at the time, and was unsure of the exact time and location of the crime. Capt. Buttacavoli believed that the victim was credible based on her demeanor. The officers took down the description and radioed the information, and Capt. Buttacavoli, Lt. Skretch and Lt. Colon began a canvass of the area.

Within a couple of minutes, they observed a black male, § 87(2)(b) driving a vehicle on Atlantic Avenue, which was around the corner from where they spoke to the victim. The color of the vehicle matched the description of the perpetrator's vehicle, and had a license plate that was off by one number. The officers pulled § 87(2)(b) over, exited their vehicle, and removed him from his vehicle. § 87(2)(b) fit the description provided by the victim, and Capt. Buttacavoli believed that he was the perpetrator. Capt. Buttacavoli initially said that § 87(2)(b) was cooperative with the officers, however, he later said that he questioned the officers about the stop, and acted evasively, which raised the officers' suspicion level. § 87(2)(b) did not seem surprised that he had been pulled over, and was not shocked when the officers relayed § 87(2)(b) § 87(2)(b)

Capt. Buttacavoli explained the circumstances to § 87(2)(b) and they played the radio run back for him a few times. § 87(2)(b) understood that they had stopped him, but was alternatively cooperative and upset throughout the interaction. § 87(2)(b) was frisked, however, Capt. Buttacavoli did not recall who did so. § 87(2)(b) was frisked because the officers believed that § 87(2)(b) was a suspect in the commission of a violent crime involving a gun, and because the complainant seemed credible.

§ 87(2)(b) vehicle was searched, however, Capt. Buttacavoli did not recall who did so, and could not describe the scope of the search. At some point, additional officers arrived on scene, however, Capt. Buttacavoli did not recall when they did, or who arrived. The victim arrived in a marked RMP with additional officers in order to conduct a showup. At the point that the showup was conducted, § 87(2)(b) was not yet in handcuffs. While Capt. Buttacavoli believed that he was the perpetrator, he could not yet prove it. The complainant stayed in the RMP during the showup, which was longer than average. Capt. Buttacavoli spoke with the victim during the course of the showup and said that she was still shaken from the incident. The victim vacillated on whether § 87(2)(b) was the perpetrator during the course of the showup, and asked to get

closer in order to have a better look. Upon doing so, she realized that § 87(2)(b) had a goatee, which the perpetrator did not.

Capt. Buttacavoli did not recall whether the vehicle was searched after the showup was negative, and did not recall whether any additional officers searched the vehicle after the initial search. Capt. Buttacavoli did not recall how long he stayed at the scene after the showup. He directed Lt. Skretch to complete a UF-250. He did not recall whether he conducted any investigative action after the showup was negative or what he did after he left the scene. Nothing was removed from § 87(2)(b) vehicle, and Capt. Buttacavoli was not aware of any complaint made by § 87(2)(b) regarding his cellphone. He saw § 87(2)(b) at the 75th Precinct stationhouse on a later, unknown date, and said that § 87(2)(b) had a complaint, but that he did not recall the nature of said complaint.

The undersigned showed Capt. Buttacavoli the video footage from the incident. He confirmed that his vehicle stopped § 87(2)(b) vehicle, and identified himself as the left-most officer on the passenger side of the vehicle at 10:54:17 p.m. He identified Lt. Colon as the officer standing next to him, and said that it was Lt. Colon that searched the vehicle. Capt. Buttacavoli did not order him to do so, but he did not have a problem with the search. Capt. Buttacavoli confirmed that Lt. Colon searched the rear of the vehicle at 10:58:13 p.m., and that the trunk was opened at 10:59:15 p.m. Capt. Colon said that the officers had reasonable suspicion that there was a chance that § 87(2)(b) had hidden a gun in the trunk used in the commission of a violent crime, but that no weapon was recovered from the vehicle.

At 11:04:58 p.m., the rear passenger door is opened and the car is again searched by an officer. Capt. Buttacavoli said that this was done because they still believed that § 87(2)(b) was the perpetrator, and that they were still looking for the gun. He did not order any officer to search the vehicle, and was not aware of any officer making such an order. At the 11:11:03 p.m., Capt. Buttacavoli said that he believed the showup was still being conducted, and at 11:13:37 p.m., he believed it was still ongoing based on the amount of vehicles at the scene. Capt. Buttacavoli said that the video was a fair and accurate representation of what he observed at the time of the incident. Capt. Buttacavoli strongly believed § 87(2)(b) was the perpetrator based on the fact that he fit the description of the perpetrator and his vehicle, and the way that he acted during the course of the investigation.

Subject Officer: LT. ELLIOT COLON

- *On the date of the incident, Lt. Colon was § 87(2)(b) old. He is a Hispanic male, stands 5'6" tall, weighs 175 pounds, is mostly bald, with some short, black hair, and has brown eyes.*
- *Lt. Colon was the Special Operations Lieutenant, worked an unknown tour, was partnered with Capt. John Buttacavoli and Lt. Timothy Skretch, and was assigned to an unmarked, light-blue Ford (1519). He did not recall whether he was in uniform or plainclothes.*

Memo Book

Lt. Colon did not prepare any memo book entries for the incident.

CCRB Statement:

On May 15, 2014, Lt. Colon was interviewed at the CCRB (encl. 18A - C). His statement is summarized below.

On February 15, 2013, at approximately 10:50 p.m., Lt. Colon was driving with Capt. Buttacavoli and Lt. Skretch on Fulton Avenue in Brooklyn. Lt. Skretch was driving, Lt. Colon was in the

front passenger seat, and Capt. Buttacavoli was in the rear. They got a call about § 87(2)(b), and Lt. Skretch pulled over to the two, unknown, impact footpost officers that were speaking with the female. Lt. Skretch spoke with the officers for the most part, as he had pulled up so that he was directly next to the officers. The female was distraught and seemed scared, § 87(2)(b). She provided a description of the perpetrator as a bald, male black. He was driving a white Honda, the victim provided the license plate of the vehicle, which Lt. Colon did not recall. The officers spoke to the victim for approximately one to two minutes, and then they began a canvass of the area.

The officers drove around the block and, and all three of them observed an individual that matched the description of the perpetrator, driving a vehicle that matched the description provided and had a license plate off by one digit parked on Atlantic Avenue. Lt. Colon believed that it was the perpetrator at the time, and Lt. Skretch pulled up behind the vehicle. The officers exited the vehicle and approached the car.

Lt. Skretch had a conversation with the driver, § 87(2)(b) however, Lt. Colon did not hear the conversation. § 87(2)(b) was removed from the vehicle. Lt. Colon did not recall § 87(2)(b) demeanor when he was stopped. Approximately thirty seconds to one minute after the vehicle stop the victim arrived on scene in an RMP for the showup. Lt. Colon did not recall if the vehicle was marked or unmarked. The female remained in the vehicle with the unknown officers that transported her. The victim immediately provided a positive identification of § 87(2)(b) as the perpetrator, however, he did not see or hear the identification take place. Lt. Colon said that the victim told the officers in the vehicle, who told another group of officers, and Lt. Colon eventually heard from an unknown officer. Lt. Colon did not recall whether the victim was indecisive at all regarding the identification, or whether she vacillated in her decision. The positive identification of § 87(2)(b) bolstered Lt. Colon's belief that he was the perpetrator.

Lt. Skretch then brought § 87(2)(b) to the back of the vehicle. Lt. Colon did not see whether § 87(2)(b) was frisked. Lt. Colon then searched the vehicle for the firearm that was allegedly used in the commission of the crime. He searched the entire vehicle, including the trunk, for the firearm. At a certain point, the victim recanted her identification and said that § 87(2)(b) was not the perpetrator. Lt. Colon did not know when this reversal took place or the reason that the victim changed her mind. Lt. Colon did not recall whether he continued to search the vehicle after the victim recanted. He did not recall if any other officers searched the vehicle, or if he or any of his partners ordered any officer to do so. Lt. Colon later stated that he did not recall if the search was conducted before or after the showup produced a positive identification. No weapons were recovered from the search.

The officers told § 87(2)(b) that they stopped him based on the fact that both he and his vehicle matched the description provided by the victim, and § 87(2)(b) was free to leave at that point. Lt. Skretch completed a UF-250, and the officers left the scene. Lt. Colon did not know why Lt. Skretch marked, "Evasive, false or inconsistent responses to officer's questions" on the UF-250. He did not recall how long they were on scene after the female reversed her identification, or how long the entire stop lasted. Lt. Colon said that there were other officers on scene, but he did not recall who.

The undersigned showed Lt. Colon the surveillance footage of the incident. He confirmed that the three officers in the video were himself, Capt. Buttacavoli, and Lt. Skretch, and that the driver was § 87(2)(b). Lt. Skretch is on the right side of the vehicle, Lt. Colon is on the left side, by the front passenger door, and Capt. Buttacavoli is behind him. At 10:55:01 p.m., a second, marked vehicle with the lights engaged arrives with two officers, however, Lt. Colon did not

recall who they were. At 10:55:46 p.m., Lt. Colon confirmed that he is searching the front, passenger area of vehicle, but was unsure whether the showup had been conducted. At 10:57:24 p.m., Lt. Colon searched the front driver's side area. From 10:59:15 p.m. until 10:59:35 p.m. Lt. Colon searched the trunk of the vehicle. Lt. Colon said that the video was a fair and accurate depiction of the encounter, however, he could not attest to the accuracy of the recording. Lt. Colon did not amend his testimony in any way after watching the video.

Witness Officer: SGT. ANTHONY GULOTTA

- *On the date of the incident, Sgt. Gulotta was § 87(2)(b) old. He is a white male, stands 5'11" tall, weighs 220 pounds, and has brown hair and brown eyes.*
- *Sgt. Gulotta was the Impact Sergeant, worked from 7:15 p.m. on February 15, 2013, until 4:12 a.m. on February 16, 2013, was partnered with PO Cabrera, was assigned to marked RMP 3927, and was in uniform.*

Memo Book (encl. 19A - B)

At 10:35 p.m., Sgt. Gulotta responded to a request for additional units at footpost 81, located at § 87(2)(b)

At 11:00 p.m., he went administrative at the 75th Precinct stationhouse.

CCRB Statement:

On July 28, 2014, Sgt. Gulotta was interviewed at the CCRB (encl. 20A - B). His statement is summarized below.

On February 15, 2013, at 10:35 p.m., Sgt. Gulotta responded to a request for additional units at footpost eighty-one, § 87(2)(b) in Brooklyn. The call was for § 87(2)(b). When he arrived on scene he saw the footpost officer, PO Miles, speaking with the female victim. The victim provided a description of the perpetrator, which PO Miles transmitted over the radio. Sgt. Gulotta did not recall the description of the perpetrator or whether he had any conversation with the victim. After five to ten minutes, there was a radio run for a vehicle stop at Atlantic Avenue involving a rape suspect. Sgt. Gulotta, PO Cabrera, PO Miles and the victim drove to the scene in the RMP.

When they arrived on scene Sgt. Gulotta and PO Miles exited the vehicle with the victim and stood with her. PO Miles asked the victim if the suspect, identified via the investigation as § 87(2)(b) was the perpetrator. The victim did not positively identify § 87(2)(b) during the three to four minutes of the showup. Sgt. Gulotta did not recall if there was any back and forth dialogue during the showup, however, he said that the victim did not positively identify § 87(2)(b) as the perpetrator at any point. Sgt. Gulotta said that an unknown officer relayed the fact that the showup was negative, but that he did not do so, and did not recall whether PO Miles did so. He did not recall whether there were any other officers in the immediate area of the victim during the showup or if PO Sloan was with them. The victim got back into Sgt. Gulotta's vehicle, and they transported her back to Atlantic Avenue to await an ambulance. Sgt. Gulotta and PO Cabrera brought PO Miles to the 75th Precinct stationhouse in order to complete paperwork. Sgt. Gulotta did not see § 87(2)(b) vehicle searched while he was on scene.

Witness Officer: PO LISA MILES

- *On the date of the incident, PO Miles was § 87(2)(b) old. She is a black female, stands 5'6" tall, weighs 155 pounds, and has black hair and brown eyes.*
- *PO Miles was assigned to Footpost 81 - Fulton Street, worked alone from 7:30 p.m. on February 15, 2013, until 4:05 a.m. on February 16, 2013, and was in uniform.*

Memo Book (encl. 21A - D)

At 10:29 p.m. PO Miles had a pickup of § 87(2)(b)

At 10:48 p.m. Sgt. Gulotta responded to scene at post. At 11:30 p.m. the ambulance arrived on scene. At 11:40 p.m. they departed to § 87(2)(b). At 12:00 a.m. they arrived at the hospital.

CCRB Statement:

On June 12, 2014, PO Miles was interviewed at CCRB (encl. 22A - B). Her statement is summarized below.

On February 15, 2013, at approximately 10:29 p.m., PO Miles saw a female walking near § 87(2)(b). The female was crying loudly, and PO Miles approached her and asked her what happened. § 87(2)(b) PO Miles believed she was credible because she was crying and seemed shaken up. PO Miles put a call over the radio, and her supervisor, Sgt. Gulotta, arrived on scene at 10:48 p.m. Sgt. Gulotta called an ambulance to the scene, however, he did not provide any additional information or call any additional officers to the scene. There were no additional officers on scene at any point. At 11:30 p.m. an ambulance arrived to transport the victim. At 11:40 p.m. PO Miles departed the scene with the victim and went to § 87(2)(b), and they arrived at 12:00 a.m. PO Miles did not recall whether the victim left the scene at any point before the ambulance arrived, or if a showup was conducted. PO Miles did not recall whether Sgt. Gulotta spoke with the victim, or hear any conversation regarding the suspect. The victim did not provide a description § 87(2)(b)

Witness Officer: PO TERRENCE SLOAN

- *On the date of the incident, PO Sloan was § 87(2)(b) old. He is a white male, stands 6'2" tall, weighs 230 pounds, and has blonde hair and blue eyes.*
- *PO Sloan was Sgt. Anthony Gulotta's operator and worked with PO Cabrera, worked 7:30 p.m. on February 15, 2013, until 4:05 a.m. on February 16, 2013, was assigned to marked RMP 3927, and was dressed in uniform.*

Memo Book (encl. 23A - E)

At 10:35 p.m. PO Sloan responded to a 10-85 at a footpost for § 87(2)(b). At 10:40 p.m. PO Sloan arrived on scene and began a canvass of the area for a black male, 6'0" tall, 200 pounds, goes by § 87(2)(b) wearing a crème sweater, dark jeans, and suede boots. At 10:55 p.m. PO Sloan responded to a call made by the 75th Precinct executive officer at Schenk Street and Atlantic Avenue. At 11:10 p.m. a showup was conducted with negative results.

CCRB Statement:

On June 13, 2014, PO Sloan was interviewed at the CCRB (encl. 24A - B). His statement is summarized below.

On February 15, 2013, at approximately 10:35 p.m., PO Sloan, PO Cabrera and Sgt. Gulotta responded to § 87(2)(b) in Brooklyn. Sgt. Gulotta spoke with a footpost officer, identified as PO Miles, § 87(2)(b). PO Miles relayed a description of the perpetrator, which an unknown officer transmitted over the radio. PO Sloan did not have any direct interaction with the victim, and he did not hear any

conversation between Sgt. Gulotta and the victim. At 10:40 p.m. they began canvassing the area in search of the suspect.

At 10:55 p.m. PO Sloan, PO Cabrera and Sgt. Gulotta responded to a call for additional units at Schenk Street and Atlantic Avenue by Capt. Buttacavoli. When they arrived on scene PO Sloan saw an individual, § 87(2)(b) standing outside of his vehicle. Capt. Buttacavoli, Lt. Colon and Lt. Skretch were on scene. § 87(2)(b) fit the description of the perpetrator, however, PO Sloan did not recall how. § 87(2)(b) seemed upset that he was stopped, and asked the officers why they stopped him and why it was taking so long. One of the officers told him that they were conducting an investigation, and that he would be free to go when it was concluded. § 87(2)(b) was upset, however, he remained compliant.

PO Sloan did not recall whether any officer searched § 87(2)(b) vehicle or if he did so. PO Sloan stood on the sidewalk and spoke with § 87(2)(b) although he did not recall what he spoke to him about. At a certain point after PO Sloan arrived, a marked RMP arrived with the victim to conduct a showup. PO Sloan did not recall when the vehicle arrived, or which officers brought the victim. PO Sloan stood next to § 87(2)(b) while the showup was conducted, however, he did not hear any of the conversation and was not directly involved in the showup process.

Approximately fifteen minutes after PO Sloan arrived at the scene the showup car left, at which point PO Sloan knew that the showup was negative because § 87(2)(b) was not arrested.

Witness Officer: PO LUIS CABRERA

- *On the date of the incident, PO Cabrera was § 87(2)(b) old. He is a Hispanic male, stands 5'8" tall, weighs 218 pounds, and has black hair and brown eyes.*
- *PO Cabrera was Sgt. Anthony Gulotta's operator. He worked the same tour and assignment as PO Terrence Sloan.*

Memo Book (encl. 25A - C)

At 10:50 p.m. PO Cabrera responded to § 87(2)(b), and at 10:51p.m. he arrived on scene. At 11:00 p.m. he began a canvas with the victim, and had a car stop at Schenk and Atlantic. At 11:53 p.m. he resumed patrol.

CCRB Statement:

On June 25, 2014, PO Cabrera was interviewed at the CCRB (encl. 26A - B). His statement is summarized below.

On February 15, 2013, PO Cabrera was Sgt. Gulotta's operator. PO Cabrera had no independent recollection of the incident or the preceding pickup of the assault. Despite the fact that his memo book noted that they canvased with the victim, he did not recall the incident.

Witness Officer: PO NICHOLAS ACCETTA

- *On the date of the incident, PO Accetta was § 87(2)(b) old. He is a white male, stands 5'11" tall, weighs 213 pounds, and has brown hair and brown eyes.*
- *PO Accetta was the Sergeant's Operator, worked from 7:30 p.m. on February 15, 2013, until 4:05 a.m. on February 16, 2013, was partnered with Sgt. Paul Muggeo, was assigned to marked RMP 2314, and was in uniform.*

Memo Book (encl. 27A - C)

PO Accetta had no memo book entries regarding this incident.

CCRB Statement:

On May 8, 2014, PO Accetta was interviewed at the CCRB as § 87(2)(b) identified him by name as being on scene (encl. 28A - B). His statement is summarized below.

On February 15, 2013, PO Accetta was Sgt. Muggeo's operator, and was with him for the entirety of his tour. PO Accetta had no recollection of the incident.

Officer Not Interviewed

Sgt. Paul Muggeo was PO Nicholas Accetta's partner on the date of the incident. Sgt. Muggeo did not fit the description of any of the subject officers, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

NYPD Documents

New York State Department of Motor Vehicle Records (encl. 29A - B)

A search of NYS DMV records confirmed that § 87(2)(b) owned a white Honda, license plate § 87(2)(b) on the date of the incident.

SPRINT (encl. 31A - B)

At 10:48 p.m., Capt. Buttacavoli radioed a BOLO for a silver Honda Accord, with New York license plate § 87(2)(b) and EMS was notified. At 10:50 p.m., a description of the perpetrator was transmitted over the radio: male black, husky build, Caesar haircut, about six feet tall, possibly named § 87(2)(b). At 10:53 p.m. there was a car stop at Atlantic Avenue and Schenck Avenue by Capt. Buttacavoli. At 11:22 p.m. a showup was conducted, which was negative.

§ 87(2)(b) Surveillance Video (encl. 12)

§ 87(2)(b) provided a copy of the surveillance footage of the incident, which she videotaped from the monitor of § 87(2)(b) located next to the incident location. The undersigned sent two letters to the facility on February 10, 2014, and July 11, 2014, in order to obtain an original copy of the surveillance video. To date, no one at the facility has contacted the CCRB. The video is 22:25 minutes in length, and there are intermittent timestamps shown throughout the video. The highlights are noted below:

At 01:28 of the video, a timestamp for 22:54:35 is visible (encl. 6B). Based on this information, the investigation was able to determine the starting time of the video as approximately 10:53 p.m. At 22:53:19, § 87(2)(b) pulls his car next to the sidewalk and parks. An unmarked police vehicle pulls up behind him, and three officers exit the unmarked vehicle and surround § 87(2)(b) at 22:53:29. The driver, identified as Lt. Skretch via his testimony, walks up to the window and speaks to § 87(2)(b). Lt. Colon and Capt. Buttacavoli stand on the passenger side of the vehicle. At 22:55:01, a second, marked vehicle with the turret lights engaged arrives with two officers. Capt. Buttacavoli walks to driver's side of § 87(2)(b) vehicle, and at 22:55:09, § 87(2)(b) exits the vehicle and walks to the middle of it. As per Lt. Skretch's testimony, at 22:55:43, Lt. Skretch and Capt. Buttacavoli frisk § 87(2)(b). At 22:55:46, Lt. Colon searches within the front passenger door of the vehicle until 22:57:24, at which point he exits the vehicle, closes the door, and walks to the front, driver's side door. Lt. Colon opens the door and searches until 22:58:27.

At 22:59:07, § 87(2)(b) walks over to the sidewalk with Lt. Skretch, and two unidentified officers. At 22:59:15, the trunk opens and is searched by Lt. Colon until 22:59:35. A third

marked vehicle arrives at 22:59:58, with its turret lights engaged. At 06:57 of the video another timestamp showed that it was 23:00:00 (encl. 6C). 23:00:02, § 87(2)(b) walks towards the vehicle. At 23:04:23, an unidentified officer shines his flashlight into the vehicle for fifteen seconds. At 23:04:58, the passenger side doors are opened, and the car is searched again for a number of minutes (by an officer identified by Lt. Colon in his statement as himself). The trunk is opened again at 23:08:33, and stays open until 23:09:20. It is unclear who opens the trunk or whether an additional search is conducted. The video skips from 23:08:33 until 23:10:00, and the doors on both sides of the vehicle can be seen opening and shutting, but it is unclear who is opening or closing the doors. The front passenger door is opened and searched from 23:10:00 until 23:11:28, at which point the door is closed and the officer exits. The video skips again from 23:11:41 until the end, however, there is no timestamp at the end of the video.

Status of Civil Proceedings (encl. 33)

- § 87(2)(b) and § 87(2)(b) have not filed a notice of claim with the City of New York as of June 26, 2014, with regard to the incident.

Civilians CCRB History (encl. 4 - 5)

- This is the first CCRB complaint involving § 87(2)(b)
- § 87(2)(b) was involved in one other CCRB complaint:
 - § 87(2)(b)

Subject Officers CCRB History (encl. 1 - 3)

- Capt. John Buttacavoli has been a member of the service for seventeen years and there are no substantiated CCRB allegations against him.
- Lt. Timothy Skretch has been a member of the service for fourteen years and there are no substantiated CCRB allegations against him.
- Lt. Elliot Colon has been a member of the service for twenty years and there are three substantiated CCRB allegations against him.
 - In case 9604418, the CCRB substantiated force, abuse of authority and discourtesy allegations against Lt. Colon, and charges were recommended. To date, the NYPD had not reached a disposition.

Conclusion

Identification of Subject Officers

§ 87(2)(b) was stopped by three, plainclothes officers, identified via the investigation as Capt. Buttacavoli, Lt. Skretch and Lt. Colon. § 87(2)(g)

§ 87(2)(b) described the officer that frisked him as a white male, approximately six feet two inches tall, two hundred and twenty pounds, with blonde hair, wearing plainclothes. Lt. Skretch testified that he frisked § 87(2)(b) and is a white male, stands six feet tall, weighs two hundred and thirty pounds and has brown hair. § 87(2)(g)

§ 87(2)(b) described the officer that searched his vehicle as a white male, approximately five feet ten inches tall, with a heavyset build. This description most accurately fits Capt. Buttacavoli, however, Lt. Colon acknowledged and Capt. Buttacavoli and Lt. Skretch corroborated, that Lt. Colon searched the vehicle. § 87(2)(g)

As discussed above, § 87(2)(b) described Capt. Buttacavoli as having searched his vehicle, but he and § 87(2)(b) were unable to describe any other officers that did so. Lt. Skretch initially said that Lt. Colon and Capt. Buttacavoli searched the vehicle, however, he was unable to see what they were doing. Capt. Buttacavoli initially did not recall who searched the vehicle. After viewing the surveillance footage, Lt. Skretch, Lt. Colon and Capt. Buttacavoli said that Lt. Colon searched the vehicle, not Capt. Buttacavoli, and none of them directed any officer to search § 87(2)(b) vehicle. None of the other officers that were interviewed admitted to searching the vehicle, and they were unable to who did so. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Capt. John Buttacavoli stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed by virtue of civilian and officer testimony, as well as the surveillance footage, that Capt. Buttacavoli stopped the vehicle in which § 87(2)(b) was an occupant.

A close description of a vehicle and license plate, in addition to spacial and temporal proximity to the location of a crime, constitute reasonable suspicion to conduct a vehicle stop. *People v. Argyris*, 952 N.Y.S.2d 254 (2nd Dept. 2013) (encl. 0A - C).

The victim described the perpetrator as a black male, with a husky build and Caesar haircut, driving a silver Honda Accord, license plate § 87(2)(b) § 87(2)(b) generally fit the description of the perpetrator, and was driving an almost identical vehicle with a license plate that was one digit off of the plate reported by the victim, which was reflected by the stop and frisk report prepared by Lt. Skretch. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation B – Abuse of Authority: Lt. Timothy Skretch frisked § 87(2)(b)

It is undisputed that Lt. Skretch frisked § 87(2)(b) It is also undisputed that § 87(2)(b) fit the general description of the perpetrator § 87(2)(b), and was driving a vehicle that was a virtual match for that driven by the perpetrator less than a quarter mile away from the scene of the crime, within five minutes of the radio run.

An officer may order a driver out of a vehicle and frisk them upon reasonable suspicion that they are armed and dangerous. *Knowles v. Iowa*, 525 U.S. 113 (1998) (encl. 0D - I). An officer has reasonable suspicion to detain a person suspected of a violent crime pending a showup, and conduct a frisk in the case of a violent crime, when an individual fits the description provided for

the perpetrator, and is in close spacial and temporal proximity to said crime. *People v. Torres*, 239 A.D.2d 154 (1st Dept. 1997) (encl. 0J).

§ 87(2)(g)

Allegation C – Abuse of Authority: Lt. Elliot Colon searched the car in which § 87(2)(b) was an occupant.

It is undisputed by virtue of civilian and officer testimony, as well as the surveillance footage, that Lt. Colon searched § 87(2)(b) vehicle, including the trunk, without consent. § 87(2)(g)

§ 87(2)(b) alleged that Lt. Colon searched his vehicle before the showup was conducted, and continued to do so after the showup was negative.

Lt. Colon did not recall when he searched § 87(2)(b) vehicle.

According to Lt. Skretch and Capt. Buttacavoli, Lt. Colon searched the vehicle before the showup was conducted. As per the surveillance footage and the SPRINT, § 87(2)(b) was stopped at 22:53:29. At 22:55:43, § 87(2)(b) is frisked by Lt. Skretch. Lt. Colon searched the front passenger side and driver's side of the vehicle from 22:55:46 until 22:58:27. § 87(2)(b) walked to the sidewalk with Lt. Skretch and two unidentified officers at 22:59:07 to await the showup. At 22:59:15, the trunk of § 87(2)(b) vehicle opened and Lt. Colon searched it until 22:59:35 at which point the trunk is closed. A third marked vehicle arrives at 22:59:58, with its lights engaged, and § 87(2)(b) walks towards the vehicle with two officers standing around him, and stands there until 23:01:15. The investigation determined that this is the point at which the show up occurred. § 87(2)(g)

§ 87(2)(b) testified that the victim did not identify him as the perpetrator at any point.

Lt. Colon testified that the victim immediately identified § 87(2)(b) as the perpetrator, but later recanted the positive identification. At no point was § 87(2)(b) placed in handcuffs.

According to Lt. Skretch, the victim was unable to positively identify § 87(2)(b) as the perpetrator, and at no point was he placed in handcuffs. Sgt. Gulotta stood next to the victim during the showup, and he corroborated that she did not positively identify § 87(2)(b) § 87(2)(g)

An officer acting on reasonable suspicion that criminal activity is afoot and on an articulable basis to fear for his own safety may intrude upon the person or personal effects of the suspect

only to the extent that is actually necessary to protect himself from harm while he conducts an inquiry. Such intrusion is not permitted to extend to the closed compartments within the suspect's vehicle when the suspect is out of the vehicle and any immediate threat had been abated. *People v. Torres*, 74 N.Y.2d 224 (1989) (encl. 0K - Q). When there is probable cause to arrest a defendant and the police have reason to believe that a car may contain further evidence relating to a crime, they may search the entire vehicle, including closed containers for additional contraband. *People v. Wright, Wright, and Stallinger*, 35 Misc. 3d 1224(A) (Sup. Ct., Nassau Co. 2012) (encl. 0U-Z).

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: Officers searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) alleged that multiple officers searched his vehicle throughout the incident, however, he was unable to describe any of the officers that did so.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

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Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
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Reviewer: _____
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